

Services and Supports Provided by Legally Responsible Individuals, Relatives, and Legal Guardians

Services and Supports Provided by Legally Responsible Individuals

- Payment to legally responsible individuals of waiver recipients, including biological and adoptive parents of recipients under 18, and spouses of adult recipients, for any waiver services is prohibited under the CAP-MR/DD waiver.

Payment to Relatives of Waiver Recipients

- Payment to relatives of waiver recipients including biological or adoptive parents of adult children, and other biological family members such as brothers or sisters, is allowable for any waiver services within the following requirements:
 1. A parent/parents, biological or adoptive, of an adult child in combination may not provide more than 40 hours of services in a seven day period. For parents, biological or adoptive, 40 hours is the total amount regardless of the number of children who receive services under the waiver.
 2. Other biological family members such as brothers or sisters may not provide more than 40 hours of services in a seven day period.
 3. Waiver recipients must be offered a choice of providers. If the waiver recipient chooses a parent or biological family member as their care provider, it must be documented in the Plan of Care.
 4. The service provided is not a function which a relative would normally provide for the individual without charge as a matter of course in the usual relationship among members of the nuclear family.
 5. The relative must meet the provider qualifications of the service.

Payment to Legal Guardians

Payment to legal guardians, including general guardians, guardians of the person, and guardians of the estate, for any waiver services is prohibited under the CAP-MR/DD waiver, with the exception that legal guardians of the person may provide Residential Supports if they are not the parent or step-parent of a minor or adult child, including biological and adoptive parents, or spouse. Except for the guardian of the person, a guardian has fiduciary duty and responsibility for caring for the ward's person and/or estate. Provision of paid care to the guardian of the ward is in conflict to the fiduciary duty of the guardian to protect the interest of the ward, manage the ward's estate, preserve the ward's assets in secure investments, or provide for the ward's shelter, food and health care. A fiduciary may not do anything which could appear to be for the fiduciary's own interest.